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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/992,035	11/23/2001	Michael D. Dahlin	1039-0030	4451

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EXAMINER
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GILLIGAN, CHRISTOPHER L

ART UNIT	PAPER NUMBER
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3626

DATE MAILED: 09/21/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/992,035	<b>Applicant(s)</b> DAHLIN ET AL.	
	<b>Examiner</b> Luke Gilligan	<b>Art Unit</b> 3626	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 09 June 2006.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1,4-9,18,21-25 and 27 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,4-9,18,21-25 and 27 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

***Election/Restrictions***

1. Applicant's election without traverse of 1, 4-9, 18, 21-25, and 27 in the reply filed on 6/9/06 is acknowledged.
2. Claims 28-40 are withdrawn from consideration as being drawn to a non-elected invention.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1, 4-5, 8-9, 18, 21-22, 25, and 27 are rejected under 35 U.S.C. 102(e) as being anticipated by Barry et al., U.S. Patent No. 6,188,988.
5. As per claim 1, Barry teaches a system to implement at least one medical diagnostic or treatment algorithm in a healthcare workflow, the at least one medical diagnostic or treatment algorithm being associated with at least one disease management entity, the system comprising: storage including the at least one medical diagnostic or treatment algorithm and at least one patient medical record (see column 8, lines 12-19); a user interface operable to display an interface associated with the healthcare workflow to a healthcare provider, wherein the healthcare workflow includes a set of interfaces for the healthcare provider to enter patient medical data into the at least one patient medical record during a patient encounter (see column 12, line 61 – column 13, line 9); and a disease management engine operable to modify the

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healthcare workflow in accordance with the at least one medical diagnostic or treatment algorithm based on the patient medical data (see column 13, lines 25-30).

6. As per claim 4, Barry teaches the system of claim 1 as described above. Barry further teaches the modification of the healthcare workflow is represented by the display of a banner (see column 16, lines 13-20, the Examiner is interpreting the pop-up "Change Therapy Recommendation" message box to be a form of "banner" as recited).

7. As per claim 5, Barry teaches the system of claim 1 as described above. Barry further teaches the modification of the healthcare workflow is represented by the display of a highlighted choice (see Figure 6B, it is noted that the adjusted dosage is indicated by a '+' sign).

8. As per claim 8, Barry teaches the system of claim 1 as described above. Barry further teaches the modification of the healthcare workflow is represented by the display of a recommended step therapy (see column 13, lines 25-30).

9. As per claim 9, Barry teaches the system of claim 1 as described above. Barry further teaches the user interface is a portable device (see column 9, lines 55-59, the Examiner interprets a computing device having minimal hardware to be portable).

10. Claims 18 and 27 recite substantially similar limitations to those already addressed in claim 1 with the additional limitation that the at least one medical diagnostic or treatment algorithm is associated with a third party disease management advisor. Since Barry teaches this additional limitation (see column 8, lines 1-10, the Examiner interprets the system as a "third party disease management advisor" with respect to the various parties that can use it).

11. Claims 21-22 and 25 recite substantially similar additional limitations to those already addressed in claims 4-5 and 8 and, as such, are rejected for similar reasons as given above.

***Claim Rejections - 35 USC § 103***

12. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

13. Claims 6 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Barry et al., U.S. Patent No. 6,188,988 in view of Iliff, U.S. Patent No. 6,206,829.

14. As per claim 6, Barry teaches the system of claim 1 as described above. Barry does not explicitly teach the modification of the healthcare workflow is represented by the display of a question. Iliff teaches a medical treatment advice system that includes displaying to a user a modification of a healthcare workflow represented by the display of a question (see column 79, lines 59-63 and Figure 33). It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate this feature into the system of Barry. One of ordinary skill in the art would have been motivated to incorporate such a feature for the purpose of aiding in selecting treatment regimens in which the information regarding the treatment options can be readily understood (see column 2, lines 33-45 of Barry) by presenting a user with additional questions as taught by Iliff.

15. Claim 23 recites substantially similar additional limitations to those already addressed in claim 6 and, as such, is rejected for similar reasons as given above.

16. Claims 7 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Barry et al., U.S. Patent No. 6,188,988 in view of Schmidt et al., U.S. Patent No. 6,839,678.

17. As per claim 7, Barry teaches the system of claim 1 as described above. Although Barry does teach that the system may be used for clinical drug trial activities, the reference does not

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explicitly teach the modification of the healthcare workflow is represented by the display of a notification of a drug trial. Schmidt teaches automatically determining and notifying a patient of eligibility for medical studies by a central server (see column 2, lines 9-19). It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate this feature into the system of Barry. One of ordinary skill in the art would have been motivated to incorporate such a feature for the purpose supporting the clinical drug trial activities in Barry (see column 8, lines 1-5).

18. Claim 24 recites substantially similar additional limitations to those already addressed in claim 7 and, as such, is rejected for similar reasons as given above.

### ***Response to Arguments***

19. In the remarks filed 3/16/06, Applicants argue in substance that Brown fails to teach a system in which a healthcare provider can enter patient medical data through a set of interfaces from a healthcare workflow and modifying the healthcare workflow in accordance with the patient medical data. In response to these newly added features to the amended claims, the Examiner has now applied a new grounds of rejection in view of Barry as detailed above. Therefore, these arguments are now moot in view of the new grounds of rejection.

### ***Conclusion***

20. Applicant's amendment indicating that healthcare provider enters patient medical data, during an encounter with a patient, through a set of interfaces included in the healthcare workflow and that data is used to modify the healthcare workflow, necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE**

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**FINAL.** See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

21. A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

22. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Luke Gilligan whose telephone number is (571) 272-6770. The examiner can normally be reached on Monday-Friday 8am-5:30pm.

23. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Thomas can be reached on (571) 272-6776. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

24. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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8/17/06



C. LUKE GILLIGAN  
PATENT EXAMINER